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BEFORE THE  
BOARD OF VOCATIONAL NURSING  
AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Citation  
Against:

Case No. CV-2009-3113

RAUL ALBERTO GUERRERO  
2227 Rebecca Street  
West Covina, CA 91792

OAH No. 2012020700

Vocational Nurse License No.  
VN 229913

Respondent.

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Vocational Nursing and Psychiatric Technicians as the Final Decision in the above entitled matter.

This Decision shall become effective on October 25, 2012.

IT IS SO ORDERED this 25<sup>th</sup> day of September, 2012.



Todd D'Braunstein, PT  
President

BEFORE THE  
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Citation Against:

RAUL ALBERTO GUERRERO

Licensed Vocational Nurse No. VN229913

Respondent.

Case No. CV-2009-3113

OAH No. 2012020700

PROPOSED DECISION

Administrative Law Judge N. Gregory Taylor, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on June 5, 2012.

Linda L.Sun, Deputy Attorney General, represented Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant), the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs of the State of California.

Raul Alberto Guerrero (Respondent) was present and represented himself.

Oral and documentary evidence was received, and the matter was argued.

The case was submitted for decision on June 5, 2012.

PARTIES

1. Complainant filed the Accusation in this proceeding solely in her official capacity.

2. On September 27, 2007, the Board of Vocational Nursing and Psychiatric Technicians (Board) issued Licensed Vocational Nurse License No. VN 229913 to Raul Alberto Guerrero (Respondent). The Licensed Vocational Nurse license was in full force and effect at all times relevant to the charges brought herein and will expire November 30, 2012, unless renewed.

### JURISDICTION

3. This Citation is brought before the Board, under the authority of the following laws. All section references are to the Business and Profession Code unless otherwise indicated.

4. Code Section 2878, subdivision (e) reads as follows:

“The Board may suspend or revoke a license issued under this chapter for any of the following . . .

(e) Making or giving any false statement or information in connection with the application for issuance of a license . . .”

5. California Code of Regulations, title 16, section 2504.1 states, in part, as follows:

“If the Board or its designee asks a licensee to provide criminal history information, a licensee shall respond to that request in 30 days...”

### FACTUAL FINDINGS

1. On January 12, 2010, in the California Superior Court, County of Los Angeles, in Case Number 8JB00496, Respondent, upon guilty plea, was convicted of violating Vehicle Code section 12500, subdivision (a), driving without a license, a misdemeanor. The court placed Respondent on summary judgment for a period of 1 year under certain terms and conditions including paying fines and fees of \$761.00

2. On January 19, 2010, in the California Superior Court, County of Los Angeles, in Case Number 9RI05390, Respondent, upon his nolo contendere plea, was convicted of violating Vehicle Code section 14601, subdivision (a), driving when privilege suspended or revoked, a misdemeanor. The court suspended the imposition of sentence and placed Respondent on summary probation for a period of 36 months upon certain terms and conditions including paying fines and fees in the amount of \$1,462.00.

3. Respondent’s driver’s license was suspended for having too many traffic tickets and no registration or insurance for his vehicle. (There may be additional tickets issued to Respondent during this period for the same offense.)

4. On January 25, 2010, the Board initiated a formal investigation of Respondent's January 12, 2010 conviction for violating Vehicle Code section 12500, subdivision (a). In the course of the investigation the Board mailed notices to Respondent at his address of record with the Board requesting information about his January 12, 2010 conviction. One such request was sent to Respondent on June 3, 2010. In that request Respondent was requested to provide the Board, within 30 days of the date of the letter, a detailed description, written in his own words, of the events that led to both of his traffic violations. Respondent was also requested to provide documentation verifying that Respondent had paid his fines and complied with any other court sentencing requirements. On July 1, 2010 Respondent called the Board requesting additional time to comply with the information request. The request was granted but Respondent failed to supply the requested information. The Board forwarded a final notice to Respondent by certified mail on October 7, 2010, and the United States Postal Service confirmed delivery on October 14, 2010. Respondent failed to respond to the Board's request for information within 39 days as prescribed by existing statute and regulation.

5. Additionally, in the process of Respondent renewing his vocational nurse license, Respondent completed and signed an Application for Renewal of License on November 26, 2010 that included the question "Since you last renewed your license have you been convicted of or pled nolo contendere to any violation of any law of any state in the United States or a foreign country?" Respondent answered "No" on the application and attested to the accuracy and truthfulness of the information, signing the document under penalty of perjury. The answer was not correct.

6. On January 6, 2010, the Board served a Citation and Fine on Respondent ordering Respondent to pay the Board an administrative penalty (fine) in the amount of \$500.00.

7. On December 7, 2011, Respondent appealed the citation and requested an Informal Citation Review Conference. A second such request was made by Respondent on January 19, 2011.

8. Being unsuccessful in the Informal Citation Conference, Respondent, on January 1, 2012, requested an Administrative Hearing on the Citation. All procedural requirements for this hearing to be held have been met.

9. Respondent has been employed at a local hospital as a Vocational Nurse for the past seven years. No other disciplinary actions have been filed against his license.

10. Prior to his present position, Respondent was an Emergency Medical Technician. He assumed this position upon graduation from high school.

11. Respondent is married and has three children, ages 20, 18 and 12.

### LEGAL CONCLUSIONS

1. Cause exists to affirm the Citation under Code section 2878, subdivision (e) in that Respondent gave false information to the Board on his license renewal form when he indicated that he had he had not convicted of any crime, since his last license renewal when in fact he had. Factual Findings 1 through 3 and 5.

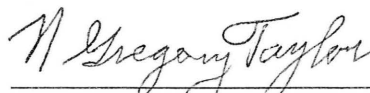
2. Cause exists to affirm the Citation under California Code of Regulations, title 16, section 2504.1 in that Respondent did not respond to the requests for information from the Board. Factual Finding 4.

3. Respondent has not challenged the factual findings made in this proceeding. His sole position is that the fine assessed by the Board is too high. He has requested a reduction in that amount. Given the circumstances surrounding this proceeding the fine assessed is reasonable. However, the board is asked to give consideration to a liberal payment plan due to Respondent's tight financial condition.

### ORDER

Citation Number CV-2009-3113 issued to Paul Alberto Guerrero, License Number VN2299113, is affirmed as to cause and is affirmed as to penalty in the amount of \$500.00. Payment of this administrative penalty shall be made directly to the Board at 2535 Capitol Oaks Drive, Suite 205, Sacramento, CA 95833 within thirty days of the effective date of this decision unless a payment plan is agreed upon between the parties within that thirty day period. .

DATED: July 3, 2012.



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N. GREGORY TAYLOR  
Administrative Law Judge  
Office of Administrative Hearings



## AMENDED CITATION ORDER

Pursuant to Business and Professions Code Section 125.9, the Board of Vocational Nursing and Psychiatric Technicians (hereinafter referred to as the "Board") issues this class 'C' citation to:

Raul A. Guerrero, LVN  
2227 Rebecca Street  
West Covina, CA 91792

Citation Number	Fine Assessed
CV-2009-3113	\$500.00

### Licensing History

Board records reflect that on **September 27, 2007** the Board issued license number **VN 229913** to **Raul Alberto Guerrero**; said license will expire on **November 30, 2012** unless renewed.

### Cause for Citation

Violation of **Section 2878 (e)** of the California Business and Professions Code, which reads as follows:

"The board may suspend or revoke a license issued under this chapter for any of the following...

- (e) Making or giving any false statement or information in connection with the application for issuance of a license..."

Violation of **Section 2504.1** of the California Code of Regulations, which states, in part, as follows:

"If the Board or its designee asks a licensee to provide criminal history information, a licensee shall respond to that request in 30 days..."

### Explanation of Violation:

On January 25, 2010, the Board commenced a formal investigation in response to notification from the Department of Justice of your conviction on January 12, 2010 for violating Vehicle Code Section 12500(a), driving without a license.

In the course of the investigation the Board mailed notices to your address of record requesting additional information regarding your conviction. The Board forwarded a notice to you on June 3, 2010 requesting information about your violation and subsequent conviction. You called the Board on July 1, 2010 requesting additional time to comply, which was granted. The Board forwarded a final notice to you by certified mail on October 7, 2010, and the United States Postal Service confirmed delivery on October 14,

2010. **You failed to respond to the Board's requests for information within 30 days as prescribed by existing statute and regulation.**

Additionally, in the process of renewing your vocational nurse license, you completed and signed an *Application for Renewal of License* on or about November 26, 2010 that included the question, "Since you last renewed your license, have you been convicted of or pled nolo contendere to any violation of any law of any state in the United States or a foreign country?" You answered 'no' on the application, attesting to the accuracy and truthfulness of this information, signing the document under penalty of perjury.

**Fine and/or Order of Abatement**

You are hereby ordered to pay an administrative penalty (fine) in the amount of **\$500.00** within **thirty (30) calendar days after service of the citation.**

Payment of this administrative penalty should be made directly to the Board at 2535 Capitol Oaks Drive, Suite 205, Sacramento, CA 95833. Payment will only be accepted in the form of a cashier's check or money order and must include the citation number. Please complete and submit the enclosed Payment of Fine – Waiver of Appeal Rights form with your payment.

**Appeal Rights**


You may appeal this citation or any portion thereof. Please use the enclosed Notice of Appeal form to request an Informal Citation Review Conference or a formal Administrative Hearing.

Your request for an Informal Citation Review Conference must be in writing and submitted to the Board within **fourteen (14) calendar days after service of the citation.**

Your request for a formal Administrative Hearing must also be in writing and submitted to the Board within **thirty (30) calendar days after service of the citation.**

Pursuant to Section 125.3 of the Business and Professions Code, the Board has authority to request the administrative law judge to direct you to pay reasonable costs for the investigation and/or enforcement of this citation. Please refer to the enclosed Statement of Rights for additional appeal information.

Failure to request an Informal Citation Review or Administrative Hearing within the time specified above will waive your right to contest this citation.

  
TERESA BELLO-JONES, J.D., M.S.N., R.N.  
Executive Officer

7/20/2011  
Date

**ATTACHMENTS**

- Payment of Fine – Waiver of Appeal Rights
- Notice of Appeal
- Statement of Rights

CJ